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Letter dated 1 November 2007 from the President of the Governing Council of the United Nations Compensation Commission to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its sixty-fourth session, which was held at Geneva on 30 and 31 October 2007.

During the opening plenary meeting, representatives of the Governments of Kuwait and Iraq addressed the Council. Copies of their respective statements are being sent by mail with the original of this letter.

During the session, the Council considered reports on the activities of the Commission since the last session, in June 2007, and on payment activities, the distribution by Governments and international organizations of payments to successful claimants, and the return of undistributed funds.

With respect to the request made by the delegation of Iraq regarding its level of contribution to the Compensation Fund at the sixty-third session in June 2007 and reiterated at this session, the Council recalled that the Security Council, in resolution 1483 (2003), by which it reduced the level of the contribution of Iraq from 25 to 5 per cent, confirmed in paragraph 21 the authority of the Governing Council in dealing with the issue of the level of Iraq's contribution to the Fund. Accordingly, the current level of 5 per cent remains in force unless the Governing Council and the Government of Iraq decide otherwise. In its conclusion on this issue, the Governing Council also recalled decision 256 (S/AC.26/Dec.256 (2005)) taken at its fifty-eighth session on the payment mechanism, which, inter alia, provided priority in payment to successful environmental claims and other successful claims with outstanding amounts less than $500 million and noted that, on the basis of the current revenue to the Fund, those prioritized claims are expected to be paid in full by mid-2011, with the possibility that an increase in the revenue to the Fund may bring forward that date. The Council also recalled that, in approving the creation of the Follow-up Programme for Environmental Awards in December 2005, it had taken into consideration the request of the Government of Iraq that the Governing Council monitor the use of such awards and transparency in expenditures and noted that a change in the current level of contribution at this stage may delay the start-up and duration of a number of restoration projects that are part of the Follow-up Programme, and thus delay the implementation of the Programme as a whole. The Council, while expressing its understanding of the issues raised by the

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Government of Iraq, declined to reduce the current level of 5 per cent and requested the secretariat to inform Iraq accordingly.

With respect to the issue of arrangements for ensuring that payments are made to the Compensation Fund, the Council noted that the shortfall of income to the Fund had escalated to approximately $92 million with the release of the audit reports for the period ending 31 December 2006. The Council requested that the Secretary follow up with the Controller regarding the shortfall to the Fund and the action that needs to be taken, if any, to ensure that 5 per cent of the revenue from the sales of petroleum and petroleum products continues to be deposited into the Compensation Fund following any future transfer of oversight functions from the International Advisory and Monitoring Board to the Iraq Committee of Financial Experts, and report back to the Governing Council at a future informal meeting. The Governing Council also requested that the Secretary continue to monitor the shortfall and the outcome of future meetings of the International Advisory and Monitoring Board and keep the Council advised of any further developments.

During the session, the Council heard a briefing by the secretariat on the status of the Follow-up Programme for Environmental Awards. The Council took note of the expert candidates that have been assembled by Jordan to serve on its independent reviewer team under the guidelines for the Programme, which are annexed to decision 258 (S/AC.26/Dec.258 (2005)). The Council also took note of the expert candidates proposed by both Kuwait and Saudi Arabia to replace some members of their respective independent reviewer teams. The Council heard a briefing by the secretariat on the remediation project phasing plans required by the guidelines under decision 258 and considered a request made by Kuwait's National Focal Point to send a representative to a future informal meeting of the Working Group to discuss Kuwait's phasing approach. The Council also encouraged participating countries to expedite implementation of their respective environmental remediation and restoration projects under the Programme, and requested that the secretariat provide further updates on the Follow-up Programme at future sessions of the Governing Council.

The Council also discussed the implementation of the current archiving policy of the Compensation Commission as it relates to the disposal of records. In its consideration of the two options set out by the secretariat, the Council noted that payments information is retained by the secretariat in respect of all categories of claims. The Council also noted that the working materials currently in storage are not subject to the seven-year retention period determined by the Governing Council at its fiftieth session, and recommended that such materials accordingly be disposed of at the discretion of the secretariat.

With regard to claims files, the Council noted that the second option presented by the secretariat would result in a more efficient and cost-effective process for the disposal of documents, and accordingly that the secretariat will proceed as follows. First, the approximately 160,000 original category C and some category A and B claim files of the Government of Kuwait will be returned to Kuwait in accordance with its request, and subject to a number of conditions. Second, the secretariat will retrieve and separate the approximately 40,000 category C claim files with a disposal date during the years 2009 to 2014 for disposal at the scheduled time. Third, the secretariat will continue with the disposal of the remaining 210,000 category C claim files slated for disposal during the years 2006 to 2008

without the need to retrieve each file individually in the course of 2008. Further, it was agreed that, within a period of one month, the members of the Governing Council will have the opportunity to request that this issue be further discussed at an informal meeting, to be held as soon as practicable.

With respect to the audit of Compensation Commission activities, the Council took note of the final audit report of the Office of Internal Oversight Services on claims payments and the secretariat's response thereto, and the section on the Compensation Commission of the annual report of the Office of Internal Oversight Services to the General Assembly, and the response of the secretariat as was incorporated into the response of the Secretary-General.

In the course of the session, the twenty-fourth meeting of the Council's Committee on Administrative Matters was also held. The Committee considered and approved the budget of the Commission for the biennium 2008-2009, including the budget for the Follow-up Programme for Environmental Awards, and presented a report on its discussion, during the closing plenary meeting of the session.

The next payment to successful claimants pursuant to decision 256 is scheduled to be made on 31 January 2008 and there are now 28 approved claims (in categories E and F), with a total outstanding balance of approximately $29.4 billion, which have not been paid in full. The overall amount of compensation made available to date by the United Nations Compensation Commission is approximately $23 billion.

(*Signed*) Alex **Van Meeuwen**
President of the Governing Council